

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
MARTINSBURG**

RICHARD WAYNE PETERS,

Petitioner,

v.

**CIVIL ACTION NO.: 3:17-CV-52
(GROH)**

MARK WILLIAMSON, Warden,

Respondent.

ORDER ADOPTING REPORT AND RECOMMENDATION

On this day, the above-styled matter came before the Court for consideration of the Report and Recommendation (“R&R”) of United States Magistrate Judge Robert W. Trumble. ECF No. 21. Pursuant to this Court’s Local Rules, this action was referred to Magistrate Judge Trumble for submission of a proposed R&R. Magistrate Judge Trumble issued his R&R on April 20, 2018. In the R&R, he recommends that the Petitioner’s § 2254 petition [ECF No. 1] be denied and dismissed with prejudice.

Pursuant to 28 U.S.C. § 636(b)(1)(C), this Court is required to make a *de novo* review of those portions of the magistrate judge’s findings to which objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. Thomas v. Arn, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and of a Petitioner’s right to appeal this Court’s Order. 28 U.S.C. § 636(b)(1); Snyder v. Ridenour, 889 F.2d 1363, 1366 (4th Cir. 1989); United States v. Schronce, 727 F.2d 91,

94 (4th Cir. 1984). Moreover, “[w]hen a party does make objections, but these objections are so general or conclusory that they fail to direct the district court to any specific error by the magistrate judge, de novo review is unnecessary.” Green v. Rubenstein, 644 F. Supp. 2d 723, 730 (S.D. W. Va. 2009) (citing Orpiano v. Johnson, 687 F.2d 44, 47 (4th Cir. 1982)).

Objections to Magistrate Judge Trumble’s R&R were due within fourteen plus three days of the Petitioner being served with a copy of the same. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). The R&R was mailed to the Petitioner by certified mail on April 20, 2018. ECF No. 21. The Petitioner accepted service on April 24, 2018. ECF No. 22. The Petitioner filed his objections on May 7, 2018. ECF No. 23. Accordingly, the Court will review the portions of the R&R to which the Petitioner objects *de novo*. The Court will review the remainder of the R&R for clear error.

Here, the Petitioner does not object to the finding that the Court lacks jurisdiction. The Petitioner’s objections merely reiterate his claims that his counsel was ineffective and his plea was involuntary. ECF No. 23.

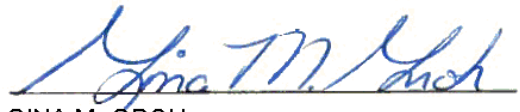
Accordingly, upon careful review and finding that this Court is without jurisdiction,¹ the Court **ORDERS** that Magistrate Judge Trumble’s Report and Recommendation [ECF No. 21] is hereby **ADOPTED** for the reasons more fully stated therein. Accordingly, the Petitioner’s § 2254 Petition [ECF No. 1] is **DENIED** and **DISMISSED WITH PREJUDICE**.

The Clerk is **DIRECTED** to strike this matter from the Court’s active docket and to

¹ Page 4 of the R&R cites to 28 U.S.C. § 2241(d)(1). The cited statute should be 28 U.S.C. § 2244(d)(1). However, this appears to be a typographical error and the substantive analysis remains the same. Accordingly, the Court modifies the R&R only to reflect the correct statute.

transmit copies of this Order to all counsel of record herein and to the *pro se* Petitioner.

DATED: May 24, 2018


GINA M. GROH
CHIEF UNITED STATES DISTRICT JUDGE